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09.02.2022
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WPA No.1560 of 2022

Soma Dhar
Vs.
The State of West Bengal and others

(Via Video Conference)

Mr. Anirban Das

.... for the petitioner

Ms. Suvasree Ghose

.... for the WBSEDCL

Mr. Subhas Chandra Atha,
Ms. Payel Paramanik

.... for the respondent no.5

Affidavit-of-service filed in court today be kept
on record.

Learned counsel for the petitioner submits that
the Distribution Licensee is not being able to give
electric connection to the petitioner, who has sought
such connection for running a commercial venture
which was run by her husband prior to the latter's
demise. Such inaction of the Licensee is due to
resistance being put up by the private respondent.

It is further submitted that the petitioner's husband (since deceased) was a tenant in respect of the premises and, as such, the petitioner has continued to be in occupation of the premises after his demise.

Learned counsel appearing for the Distribution Licensee submits that an objection was filed by the private respondent to the connection being given. It is further submitted that the private respondent also relies on an order apparently passed by a criminal court under Section 144(2) of the Code of Criminal Procedure. Purportedly due to such communication, the Distribution Licensee is being unable to give connection to the petitioner.

Learned counsel appearing for the private respondent submits that although the petitioner's husband was a tenant, the petitioner has no *locus standi* or legal right to continue in occupation of the premises or to run a commercial venture from the said property. It is submitted that since the petitioner is not even in legal occupation of the premises, she cannot be termed as an "occupier" as envisaged in Section 43 of the Electricity Act, 2003 (for short "the 2003 Act").

However, Section 43 of the 2003 Act is absolutely clear on the question as to *locus standi* of

an owner or occupier of any premises to file an application for electric connection and the duty of the Distribution Licensee to supply the same. Irrespective of the legal right of the petitioner otherwise in respect of the premises, the petitioner has a right to get electric connection at the premises as requested by her, by virtue of her occupation.

Prima facie considering the question of title, the petitioner might or might not be a tenant as contemplated under the West Bengal Premises Tenancy Act, 1997, since only a few months have elapsed after the demise of her husband, who was an admitted tenant in respect of the premises, which period falls within the statutory moratorium during which the tenant's widow has *locus standi* to stay on in the premises in such capacity.

Be that as it may, an electric connection cannot confer any special right or equity on any person and such connection can be given only on the basis of physical occupation of a person as such.

Hence, WPA No.1560 of 2022 is allowed, thereby directing the West Bengal State Electricity Distribution Company Limited (for short "the WBSEDCL") to give electric connection to the petitioner after holding an appropriate inspection for that purpose, subject to compliance of all formalities

by the petitioner, within three weeks from date or from the date of compliance of formalities, whichever is later.

In the event any obstruction is created or padlock is affixed by the private respondent no.5 to prevent the WBSEDCL personnel from holding such inspection or giving the connection, it will be open to such personnel to approach the respondent no.4 herein, the Officer-in-Charge, Eco Park Police Station for police assistance in that regard.

If so approached, the respondent no.4 shall act on the server copy of this order, without insisting upon prior production of a certified copy, and immediately grant such assistance to the WBSEDCL personnel at the cost of the petitioner. If necessary, it will be open to the police personnel to break open any padlock for the limited purpose of giving access to the Distribution Licensee personnel for giving electric connection to the petitioner and/or holding inspection in that regard.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)